
STATUTORY INSTRUMENTS

2017 No. 571

**The Town and Country Planning (Environmental
Impact Assessment) Regulations 2017**

PART 9

ROMP Applications

General application of the Regulations to ROMP applications

47. These Regulations shall apply to—

- (a) a ROMP application as they apply to an application for planning permission;
- (b) a ROMP subsequent application as they apply to a subsequent application;
- (c) ROMP development as they apply to development in respect of which an application for planning permission is, has been, or is to be made;
- (d) a relevant mineral planning authority as they apply to a relevant planning authority;
- (e) a person making a ROMP application as they apply to an applicant for planning permission;
- (f) a person making a ROMP subsequent application as they apply to a person making a subsequent application;
- (g) the determination of a ROMP application as they apply to the granting of a planning permission; and
- (h) the granting of ROMP subsequent consent as they apply to the granting of subsequent consent,

subject to the modifications and additions set out in this Part.

Modification of provisions on prohibition of granting planning permission or subsequent consent

48. In regulation 3 (prohibition on granting planning permission or subsequent consent for EIA development), after “for EIA development” insert “pursuant to a ROMP application”.

Modification of provisions on application to local planning authority without an environmental statement

49. In the case of a ROMP application, in regulation 11(4) (EIA applications made to a local planning authority without an environmental statement)—

- (a) for “3” substitute “6”; and
- (b) after “the notification” insert “, or within such other period as may be agreed with the authority in writing”.

Disapplication of regulations and modifications of provisions on application referred to or appealed to the Secretary of State without an environmental statement

50.—(1) In the case of a ROMP application, regulations 11(6) and (8), 13(7) and (8), 14(8) and (9) and 68 shall not apply.

(2) In the case of a ROMP application, in regulations 13(6) (application referred to the Secretary of State without an environmental statement) and 14(7) (appeal to the Secretary of State without an environmental statement)—

- (a) for “3” substitute “6”; and
- (b) after “the notification,” insert “ or within such other period as may be agreed with the Secretary of State in writing.”

Substitution of references to section 78 right of appeal and modification of provisions on appeal to the Secretary of State without an environmental statement

51.—(1) In the case of a ROMP application, in regulations 14(1) and 21(b), for each reference to “section 78 of the Act (right to appeal against planning decisions and failure to take such decisions)” substitute—

“paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act or paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal)”.

(2) In the case of a ROMP application, in regulation 14(2) (appeal to the Secretary of State without an environmental statement) omit “, except by refusing planning permission or subsequent consent.”

Modification of provisions on preparation, publicity and procedures on submission of environmental statements

52.—(1) In the case of a ROMP application, in regulations 15(9) and 16(6) for “an application for planning permission or a subsequent application for” substitute “a ROMP application which relates to another planning permission which authorises”.

(2) In the case of a ROMP application, in regulation 19 (procedure where an environmental statement is submitted to a local planning authority) for paragraph (4) substitute—

“(4) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 15 of, and Schedule 3 to, the Order (publicity for applications for planning permission) shall apply to a ROMP application under—

- (a) paragraph 2(2) of Schedule 2 to the 1991 Act; and
- (b) paragraph 6(1) of Schedule 14 to the 1995 Act(1),

as they apply to a planning application falling within article 15(2) of the Order except that for each reference in the notice in Schedule 3 to the Order to “planning permission” there is substituted “determination of the conditions to which a planning permission is to be subject” and that notice must refer to the relevant provisions of the 1991 Act or the 1995 Act pursuant to which the application is made.”

(3) In the case of a ROMP application, in regulation 20 (publicity where an environmental statement is submitted after the planning application)—

- (a) in paragraph (2)(a) for “that an application is being made for planning permission or subsequent consent” substitute—

(1) The provisions of the Order are not applied to applications under paragraph 9(1) of Schedule 13 to the 1995 Act as they are applied by paragraph 9(5) of Schedule 13 to the 1995 Act.

“that an application is being made for determination of the conditions to which a planning permission is to be subject, the relevant provisions of the 1991 Act or the 1995 Act pursuant to which the application is made”; and

(b) for paragraph (8) substitute—

“(8) Where an applicant indicates that it is proposed to provide such a statement and in such circumstances as are mentioned in paragraph (1), the relevant planning authority, the Secretary of State or the inspector, as the case may be, must suspend consideration of the application or appeal until the date specified by the authority or the Secretary of State for submission of the environmental statement and compliance with paragraph (6); and must not determine it during the period of 30 days beginning with the last date on which the statement and the other documents mentioned in paragraph (6) are published in accordance with this regulation.”.

(4) In the case of a ROMP application, in regulation 21 (provision of copies of environmental statements and further information for the Secretary of State on referral or appeal)—

(a) in paragraph (a) for “section 77 of the Act (reference of applications to the Secretary of State)” substitute “paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act”; and

(b) in paragraph (b) for “section 78 of the Act (right to appeal against planning decisions and failure to take such decisions)” substitute “paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act or paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal)”.

(5) In the case of a ROMP application, in regulation 23 (availability of copies of environmental statements) after “the Order” insert “(as applied by regulation 19(4) or by paragraph 9(5) of Schedule 13 to the 1995 Act)”.

(6) In the case of a ROMP application, in regulation 25 (further information and evidence respecting environmental statements)—

(a) in paragraph (3)(a) for “applicant for planning permission or subsequent consent or the appellants (as the case may be)” substitute—

“person who has applied for or who has appealed in relation to the determination of the conditions to which the planning permission is to be subject, the relevant provisions of the 1991 Act or the 1995 Act pursuant to which the application is made”;

(b) in paragraph (7) after “application or appeal” insert “until the date they specify for submission of the further information”.

(7) In regulation 26 (consideration of whether planning permission or subsequent consent should be granted)—

(a) in paragraph (1)(d) omit “if planning permission or subsequent consent is to be granted”; and

(b) in paragraph (2) for “grant planning permission or subsequent consent for EIA development” substitute “determine the conditions to which a planning permission is to be subject”.

Modification of provisions on application to the High Court and giving of directions

53.—(1) In the case of a ROMP application, for regulation 66 (application to the High Court) substitute—

“Application to the High Court

66. For the purposes of Part 12 of the Act (validity of certain decisions), the reference in section 288 of the Act, as applied by paragraph 9(3) of Schedule 2 to the 1991 Act, paragraph 16(4) of Schedule 13 to the 1995 Act or paragraph 9(4) of Schedule 14 to the 1995 Act, to “action of the Secretary of State which is not within the powers of the Act” is taken to extend to the determination of a ROMP application by the Secretary of State in contravention of regulation 3.”.

(2) The direction making power in article 31(2) of the Order shall apply to ROMP development as it applies to development in respect of which an application for planning permission is made.

Suspension of minerals development

54.—(1) Where the authority, the Secretary of State or an inspector is dealing with a ROMP application or an appeal arising from a ROMP application and notifies the applicant or appellant, as the case may be, that—

- (a) the submission of an environmental statement is required under regulation 11(1), 13(3) or 14(5), then such notification must specify the period within which the environmental statement and compliance with regulation 20(6) is required; or
- (b) a statement should contain further information under regulation 25(1), then such notification must specify the period within which that information is to be provided.

(2) Subject to paragraph (3), the planning permission to which the ROMP application relates shall not authorise any minerals development (unless the Secretary of State has made a screening direction to the effect that ROMP development is not EIA development) if the applicant or the appellant does not—

- (a) write to the authority or Secretary of State within the 6 week or other period agreed pursuant to regulation 11(4), 13(6) or 14(7);
- (b) submit an environmental statement and comply with regulation 20(6) within the period specified by the authority or the Secretary of State in accordance with paragraph (1) or within such extended period as is agreed in writing;
- (c) provide additional information within the period specified by the authority, the Secretary of State or an inspector in accordance with paragraph (1) or within such extended period as is agreed in writing; or
- (d) where a notification under regulation 6(5), 7(3), 15(3) or 16(3) has been received, provide the additional information requested within 3 weeks beginning with the date of the notification, or within such extended period as may be agreed in writing with the authority or Secretary of State, as the case may be.

(3) Where paragraph (2) applies, the planning permission shall not authorise any minerals development from the end of—

- (a) the relevant 6 week or other period agreed in writing as referred to in paragraph (2)(a); and
- (b) the period specified or agreed in writing as referred to in paragraph (2)(b), (c), and (d),

until the applicant has complied with all of the provisions referred to in paragraph (2) which are relevant to the application or appeal in question.

(4) Particulars of the suspension of minerals development and the date when that suspension ends must be entered in the appropriate part of the register as soon as reasonably practicable.

(5) Paragraph (2) shall not affect any minerals development carried out under the planning permission before the date of suspension of minerals development.

(6) For the purposes of paragraphs (2) to (5) “minerals development” means development consisting of the winning and working of minerals, or involving the depositing of mineral waste.

Determination of conditions and right of appeal on non-determination

55.—(1) Where it falls to—

- (a) a relevant mineral planning authority to determine a Schedule 1 or a Schedule 2 application, paragraph 2(6)(b) of Schedule 2 to the 1991 Act, paragraph 9(9) of Schedule 13 to the 1995 Act or paragraph 6(8) of Schedule 14 to the 1995 Act shall not have effect to treat the authority as having determined the conditions to which any relevant planning permission is to be subject unless either the relevant mineral planning authority has adopted a screening opinion or the Secretary of State has made a screening direction to the effect that the ROMP development in question is not EIA development;
- (b) a relevant mineral planning authority or the Secretary of State to determine a Schedule 1 application or a Schedule 2 application—
 - (i) section 69(2) (register of applications, etc) of the Act, and any provisions of the Order made by virtue of that section, shall have effect with any necessary amendments as if references to applications for planning permission included ROMP applications under paragraph 9(1) of Schedule 13 to the 1995 Act and paragraph 6(1) of Schedule 14 to the 1995 Act; and
 - (ii) where the relevant mineral planning authority is not the authority required to keep the register, the relevant mineral planning authority must provide the authority required to keep it with such information and documents as that authority requires to comply with section 69 of the Act (Register of applications, etc) (as applied by paragraph (i)), with regulation 28 as applied by regulation 47, and with regulation 54(4).

(2) Where it falls to the relevant mineral planning authority or the Secretary of State to determine an EIA application which is made under paragraph 2(2) of Schedule 2 to the 1991 Act, paragraph 4(4) of that Schedule shall not apply.

(3) Where it falls to the relevant mineral planning authority to determine an EIA application, the authority must give written notice of their determination of the ROMP application within 16 weeks beginning with the date of receipt by the authority of the ROMP application or such extended period as may be agreed in writing between the applicant and the authority.

(4) For the purposes of paragraph (3) a ROMP application is received by the relevant mineral planning authority when it receives—

- (a) a document referred to by the applicant as an environmental statement for the purposes of these Regulations;
- (b) any documents required to accompany that statement; and
- (c) any additional information which the authority has notified the applicant that the environmental statement should contain.

(5) Where paragraph (1)(a) applies—

- (a) paragraph 5(2)(3) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act and paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal) shall have effect as if there were also a right of appeal to the Secretary of State where the relevant

(2) Section 69 of the Act was substituted by section 118 of, and paragraphs 1 and 3 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 and amended by section 112 of, and paragraphs 1 and 7 of Schedule 12 to, the Localism Act 2011; section 190 of the Planning Act 2008; section 30 of, and paragraphs 2 and 8 of Part 2 of Schedule 4 to, the Infrastructure Act 2015 (c. 7); and section 150 of, and paragraphs 1 and 10 of Schedule 12 to, the Housing and Planning Act 2016.

(3) Paragraph 5 was amended by section 198 of the Planning Act 2008.

mineral planning authority has not given written notice of their determination of the ROMP application in accordance with paragraph (3); and

- (b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal) shall have effect as if they also provided for notice of appeal to be made within 6 months from the expiry of the 16 week or other period agreed pursuant to paragraph (3).
- (6) In determining for the purposes of—
- (a) paragraph 6(b) of Schedule 2 to the 1991 Act, paragraph 9(9) of Schedule 13 to the 1995 Act and paragraph 6(8) of Schedule 14 to the 1995 Act (determination of conditions); or
 - (b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal),

the time which has elapsed without the relevant mineral planning authority giving the applicant written notice of their determination in a case where the authority has notified an applicant in accordance with regulation 11(1) that the submission of an environmental statement is required and the Secretary of State has given a screening direction in relation to the ROMP development in question, no account shall be taken of any period before the issue of the direction.

ROMP application by a mineral planning authority

56.—(1) Where a relevant mineral planning authority proposes to make or makes a ROMP application to the Secretary of State under regulation 11 (other consents) of the General Regulations which is a Schedule 1 application or a Schedule 2 application (or proposed application), these Regulations shall apply to that application or proposed application as they apply to a ROMP application referred to the Secretary of State under paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act (reference of applications to the Secretary of State) subject to the following modifications—

- (a) subject to paragraph (2), regulations 6 to 12, 14 to 16, 19 (save for the purposes of regulations 22(3) and (4)), 21 and 30(1) do not apply;
- (b) in regulation 5 (general provisions relating to screening), paragraph (11) shall not apply;
- (c) in regulation 13(3) (application referred to the Secretary of State without an environmental statement), omit “and must send a copy of that notification to the relevant planning authority”;
- (d) in regulation 17 (procedure to facilitate preparation of environmental statements)—
 - (i) in paragraph (3)(b) for “11(4)(a), 12(6), 13(6) or 14(7)” substitute “13(6)”; and
 - (ii) in paragraph (4) omit “the relevant planning authority and” and “authority or”;
- (e) in regulation 20(2) (publicity where an environmental statement is submitted after the planning application)—
 - (i) in sub-paragraph (a) omit “and the name and address of the relevant planning authority”; and
 - (ii) for sub-paragraph (b) substitute—
 - “(b) the date on which the application was made and that it has been made to the Secretary of State under regulation 11(4) of the General Regulations;”;
- (f) in regulation 22 (procedure where an environmental statement is submitted to the Secretary of State), in paragraph (2) omit “who must send a copy to the relevant planning authority”;

(4) Regulation 11 was amended by [S.I. 1999/1810](#) and [1999/1892](#).

- (g) in regulation 25(3) (further information and evidence respecting environmental statements)—
 - (i) in sub-paragraph (a) omit “and the name and address of the relevant planning authority”; and
 - (ii) for sub-paragraph (b) substitute—
 - “(b) the date on which the application was made and that it has been made to the Secretary of State under regulation 11 of the General Regulations;”;
- (h) regulations 28 (availability of opinions, directions etc for inspection), 29(1) (information to accompany decisions) and 30(2) (duties to inform the public and the Secretary of State of final decisions) shall apply as if the references to a “relevant planning authority” were references to a mineral planning authority; and
- (i) regulation 63(2) shall not apply.

(2) A relevant mineral planning authority which is minded to make a ROMP application to the Secretary of State under regulation 11 of the General Regulations may request the Secretary of State in writing to make a screening direction, and paragraphs (3) to (7) of regulation 7 shall apply to such a request as they apply to a request made pursuant to regulation 6(10) but as if in paragraph (3) the words “, and may request the relevant planning authority to provide such information as they can on any of those points” were omitted.

- (3) A request under paragraph (2) must be accompanied by—
 - (a) a plan sufficient to identify the land;
 - (b) a description of the nature and purpose of the ROMP development, including in particular—
 - (i) a description of the physical characteristics of the whole development and, where relevant, of demolition works; and
 - (ii) a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;
 - (c) a description of the aspects of the environment likely to be significantly affected by the development;
 - (d) to the extent the information is available, a description of any likely significant effects of the proposed development on the environment resulting from—
 - (i) the expected residues and emissions and the production of waste, where relevant; and
 - (ii) the use of natural resources, in particular soil, land, water and biodiversity; and
 - (e) such other information or representations as the authority may wish to provide or make including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(4) An authority making a request under paragraph (2) must send to the Secretary of State any additional information that the Secretary of State may request in writing to enable a direction to be made.

(5) In this regulation “the General Regulations” means the Town and Country Planning General Regulations 1992(5).

(5) S.I. 1992/1492. Relevant amending instruments are S.I. 1992/1982, 1997/3006, 1998/2800, 1999/1892, 2011/1589, 2013/2145, and 2015/807.

ROMP applications: duty to make a prohibition order after two years suspension of permission

57.—(1) This regulation applies if, in relation to a minerals development—

- (a) a period of 2 years beginning with the suspension date has expired, and
- (b) the steps specified in regulation 54(2) have yet to be taken.

(2) The “suspension date” is the date on which the suspension of minerals development (within the meaning of regulation 54(3)) begins.

(3) Paragraph 3 of Schedule 9 to the Act⁽⁶⁾ (prohibition of resumption of mineral working) has effect in relation to any part of a site as it has effect in relation to the whole site.

(4) Paragraph 3(1)(b) of Schedule 9 to the Act has effect as if for the words from “the mineral planning authority may by order” to the end there were substituted—

“the mineral planning authority—

- (i) must by order prohibit the resumption of the winning and working or the depositing; and
- (ii) may in the order impose, in relation to the site, any such requirement as is specified in sub-paragraph (3).”.

(5) In paragraphs 3(2)(a) and (b) of Schedule 9 to the Act, references to winning and working or depositing are to be read as references to winning and working or depositing for which permission is not suspended by virtue of regulation 54(3).

(6) Paragraph 4(7) of Schedule 9 to the Act has effect as if for “have effect” there were substituted “authorise that development”.

(6) Paragraph 3 was amended by section 21 of, and paragraph 15 of Schedule 1 to, the 1991 Act.